

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

SIERRA CLUB, SAVE OUR
CUMBERLAND MOUNTAINS, and
TENNESSEE CLEAN WATER NETWORK,))

Plaintiffs,))

v.))

NATIONAL COAL CORPORATION,))

Defendant.))

No. 3:08-CV-410
(Phillips)

ORDER

This matter is before the Court on the following motions:

- Motion for Judgment on the Pleadings by National Coal Corporation [Doc. 19];
- Motion for Summary Judgment by National Coal Corporation [Doc. 26];
- Motion for Summary Judgment by National Coal Corporation [Doc. 29]; and
- Consent Motion to Continue and for Extension of Time [Doc. 32]

On April 12, 2010, at 1:30 p.m., the Honorable Thomas W. Phillips held a telephonic status conference with the following attorneys: Mr. W. Blaine Early, III (representing defendant National Coal Corporation), and Ms. Mary M. Mastin (representing the plaintiffs). As explained during the status conference, defendant's Motion for Judgment on the Pleadings [Doc. 19], defendant's Motion for Summary Judgment [Doc. 26], and defendant's Motion for Summary Judgment [Doc. 29] are **DENIED AS PREMATURE**, with leave to re-file if this case cannot be settled by the parties or through court-ordered mediation. Accordingly, plaintiff is granted until **May 1, 2010**, to prepare a rebuttal expert report on the issues that were raised in defendant's previous Motion for Summary Judgment [Doc. 29].

Thereafter, the parties are **ORDERED TO CONFER WITH EACH OTHER** to determine whether this case can be voluntarily settled. If this case cannot be voluntarily settled, then the parties are **ORDERED TO ENTER MEDIATION**. If the parties cannot settle this dispute by conferring with each other, on or before **JUNE 1, 2010**, the parties shall notify the court of the identity of the mediator and of the date, time, and place of mediation. In addition, the parties have until **JULY 15, 2010** to complete mediation. During the mediation, it is **ORDERED** that the parties, their representatives and/or actual decisionmakers for the parties, including persons with actual settlement authority on behalf of all the parties to this litigation, shall be present. The parties shall promptly notify the court of the results of the mediation.

In addition, the following changes have been made to the scheduling order:

1. The trial of this case is continued and shall commence on **FEBRUARY 15, 2011, at 9:00 a.m.**
2. All deadlines contained in the scheduling order previously entered in this case shall be adjusted to correspond to the new trial date.

Finally, the parties' Joint Motion for a Continuance [Doc. 32] is **GRANTED**.

IT IS SO ORDERED.

ENTER:

s/ Thomas W. Phillips
United States District Judge